



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,202	07/31/2003	John C. Fallin	03178-PA	2181

7590 05/05/2005

ARMSTRONG, WESTERMAN & HATTORI, LLP
Intellectual Property Law Offices
Suite 220
502 Washington Avenue
Towson, MD 21204

EXAMINER

DONOVAN, MAUREEN C

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,202

Applicant(s)

FALLIN, JOHN C.

Examiner

Maureen C. Donovan

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6 APRIL 2005
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06 April 2005 has been entered.

1. Claims 1,4-6 and 14 are pending.
2. Claims 2,3 and 7-13 have been cancelled.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1,4-6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galler, US patent number 3,196,018 in view of Armand Products Company brochure.

Galler discloses a granular animal feed supplement with a coating that is only hydrogenated fat (see Column 3, line 32). Galler discloses that the coating should preferably be present at less than 10% of the total product and gives examples of 2.5% (see Column 3, lines 4-12 and Example V11, Column 6), which is interpreted to meet the limitation that the coating be present from 1-5% of the feed supplement. Galler discloses that the coating is intended to protect the feed supplement from deterioration and/or loss of potency and interaction with other outside feed chemicals or air and water (see Column 1, lines 36-71). Galler discloses the use of hydrogenated tallow, which as recognized by the applicant on page 3 of the specification, will become liquid at 180°F.

Galler does not disclose that the coating is used on an inorganic feed supplement or that the supplement is anhydrous potassium carbonate.

Art Unit: 1761

Armand teaches the use of anhydrous potassium carbonate as a feed supplement for animals (see page 3, Column 2, lines 19-31 and page 5, Food column). Armand also teaches that anhydrous potassium carbonate is very susceptible to degradation upon contact with water (see page 15, Column 1, paragraph 2, lines 3-10).

Since Galler discloses that the coating will protect a supplement susceptible to deterioration, it would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the coating as disclosed by Galler on the feed supplement as taught by Armand, since Armand teaches that potassium carbonate is susceptible to deterioration and since the coating would allow more product to remain stable during shipment, storage and use.

Applicant's arguments submitted 06 April 2005 and 20 September 2004 have been considered but are moot in view of the new ground(s) of rejection.

3. The declaration under 37 CFR 1.132 filed 06 April 2005 is insufficient to overcome the rejection of claims 1, and 4-6 based upon Sakimoto, US patent number 4,678,710, as set forth in the last Office action because the apparent commercial success argument presented in the declaration is not supported by any evidence and the declaration does not establish a nexus between the invention and the commercial success. Furthermore, an expectation of commercial success in the future is not of probative value. Additionally, the unexpected results present in the declaration that the feed supplement stays free flowing and is resistant to water does not distinguish the invention from the reference applied in the above rejection.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US patent number 3,052,560; Delaney.


Art Unit: 1761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen C. Donovan whose telephone number is (571) 272-2739. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCD


KEITH HENDRICKS
PRIMARY EXAMINER